

2012 Kansas Statutes

17-1767. Same; investigation and prosecution. (a) An action for violation of this act may be prosecuted by the attorney general or county or district attorney.

(b) This act shall not be construed to limit or restrict the exercise of the powers or the performance of the duties of the attorney general, county or district attorney which the attorney general, county or district attorney otherwise is authorized to exercise or perform under any other provision of law by statute or otherwise.

(c) If, by the attorney general's or county or district attorney's own inquiries, or as a result of complaints, the attorney general or county or district attorney has reason to believe that any person has engaged in, is engaging in or is about to engage in an act or practice that violates this act, the attorney general, deputy attorney general, assistant attorney general or county or district attorney, may:

- (1) Subpoena witnesses or matter;
- (2) take testimony under oath;
- (3) examine or cause to be examined any documentary material of whatever nature relevant to such alleged violations or false or misleading information; and
- (4) require attendance during such examination of documentary material and take testimony under oath or acknowledgment in respect of any such documentary material.

(d) If documentary material that the attorney general or county or district attorney seeks to examine is located outside of the state of Kansas, the material shall be made available to the attorney general or county or district attorney at a convenient location within the state or the person being investigated shall pay the reasonable and necessary expenses for the attorney general, attorney general's legal representative or county or district attorney to examine the documentary material where located. The attorney general or county or district attorney may designate representatives, including officials of the state in which the matter is located, to inspect the matter on the attorney general's or county or district attorney's behalf, and the attorney general or county or district attorney may respond to similar requests from officials of other states.

(e) Service by the attorney general or county or district attorney of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made by:

- (1) Certified mail to the person's last known place of business, residence or abode, within or without the state; or

- (2) in the manner provided by the code of civil procedure for notice of the filing of a petition.

(f) The attorney general or county or district attorney may request that an individual who refuses to comply with the subpoena, on the ground that the testimony or matter may incriminate the individual, be ordered by the court to provide the testimony or matter. Except in a prosecution for perjury, an individual who complies with a court order to provide testimony or matter after asserting a privilege against self-incrimination to which the individual is entitled by law may not be subjected to a criminal proceeding or to a civil penalty with regard to the transaction concerning which the individual is required to testify or produce relevant matter.

(g) If any person willfully fails or refuses to file any statement or report required by this act, or obey any subpoena issued by the attorney general or county or district attorney, the attorney general or county or district attorney, after notice, may apply to the district court and, after a hearing thereon, the district court may issue an order:

- (1) Granting injunctive relief restraining the solicitation of contributions;
- (2) vacating, annulling or suspending the registration, license, corporate charter or certificate of authority to do business in this state or revoking or suspending any other licenses, permits or certificates issued pursuant to law to such persons which are used to further the allegedly unlawful practice; or
- (3) granting such other relief as may be required, until the person files the statement or report, or obeys the subpoena.

History: L. 1988, ch. 96, § 9; L. 1989, ch. 159, § 1; L. 1990, ch. 84, § 3; L. 1993, ch. 135, § 2; July 1.